

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

In re: Bankr. No. 19-24527-TPA
MICHAEL K. HERRON, Chapter 11
Debtor in Possession.

MICHAEL K. HERRON and Related to Doc. No. 222
ALLIANCE HEALTHCARE
SERVICES, INC., d/b/a ALLIANCE
IMAGING, INC.,
v.
No Respondents.

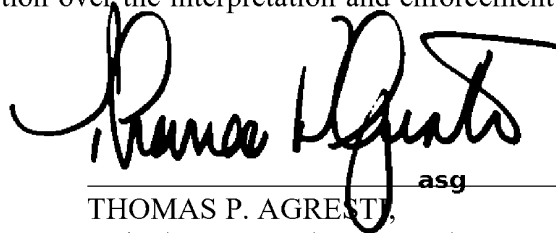
**ORDER AUTHORIZING AND APPROVING THE DEBTOR IN POSSESSION'S
PROPOSED COMPROMISE AND SETTLEMENT OF THE CLAIM OF
ALLIANCE HEALTHCARE SERVICES, INC. D/B/A ALLIANCE IMAGING, INC.**

Upon the motion (the "*Motion*") of debtor in possession, Michael K. Herron (the "*Debtor*"), seeking entry of an order approving a proposed compromise and settlement (the "*Settlement*") by and among the Debtor and Alliance Healthcare Services, Inc., d/b/a Alliance Imaging, Inc. (the "*Alliance*"), and authorizing entry into the Joint Stipulation for Settlement of Final Judgment ("*Settlement Agreement*"), all as further described in the Motion, and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and venue being proper pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion being adequate and appropriate under the particular circumstances; and upon the record of all proceedings had before the Court; and the Court having found and determined that the relief requested in the Motion is in the best interests of the Debtor's estate, its creditors, and all other parties in interest and that the legal and

factual bases set forth in the Motion establish just cause for the relief granted herein; and after due and deliberate and sufficient cause appearing therefor, it is **HEREBY ORDERED THAT:**

1. The Motion is **GRANTED** as set forth herein.
2. Pursuant to Federal Rule of Bankruptcy Procedure 9019, the terms and conditions of the Settlement as expressed in the Motion and Settlement Agreement are approved and the Debtor and the Alliance are authorized to enter into the Settlement Agreement in accordance with such terms and conditions. The Court finds and determines that the proposed compromise and resolution embodied in the Settlement described on the attached *Exhibit A* and incorporated herein by this reference are fair, reasonable and appropriate.
3. Notwithstanding any provision in the Federal Rules of Bankruptcy Procedure to the contrary, (i) the terms of this Order shall be immediately effective and enforceable upon its entry.
4. Nothing in this Order constitutes an admission or concession of any legal issue raised in or relating to the Motion or the Settlement.
5. Movant shall serve a copy of this Order on counsel for Alliance, respondent(s), their counsel, and the United States Trustee. Movant shall file a certificate of service within three days of the date of entry of this Order.
6. The Court shall retain jurisdiction over the interpretation and enforcement of this Order.

ENTERED: December 16, 2020



asg

THOMAS P. AGRESTI,
United States Bankruptcy Judge

EXHIBIT A

IN THE CIRCUIT COURT OF THE 5TH
JUDICIAL CIRCUIT IN AND FOR CITRUS
COUNTY, FLORIDA

CASE NO. 2011 CA 4232

ALLIANCE HEALTHCARE SERVICES, INC
d/b/a ALLIANCE IMAGING, INC.,
Plaintiff,
vs.

SUGAR MILL DIAGNOSTIC IMAGING, LLC,
Defendant,
and

TD BANK N.A.,
Defendants
_____ /

JOINT STIPULATION FOR SETTLEMENT OF FINAL JUDGMENT

Plaintiff, **ALLIANCE HEALTHCARE SERVICES, INC. d/b/a ALLIANCE IMAGING, INC.**, for itself and by and through its undersigned counsel, and Defendant, **SUGAR MILL DIAGNOSTIC IMAGING, LLC**, and Interested Party, **MICHAEL K. HERRON¹**, on their own behalf, hereby enter into this Joint Stipulation for Settlement of Final Judgment and hereby agree as follows:

1. That on or about **May 14, 2013**, Plaintiff, **ALLIANCE HEALTHCARE SERVICES, INC. d/b/a ALLIANCE IMAGING, INC.**, obtained a Summary Final Judgment against Defendant, **SUGAR MILL DIAGNOSTIC IMAGING, LLC**, in the amount of **\$32,046.00**.

2. That on or about July 6, 2020, a Writ of Garnishment was served upon Garnishee, **TD BANK N.A.**

3. That on or about July 6, 2020, Garnishee, **TD BANK N.A.**, answered the Writ of Garnishment indicating that it was holding funds in the name of the Defendant, **SUGAR MILL DIAGNOSTIC IMAGING, LLC**, in the total amount of **\$69,092.00** Thereafter, on July 9, 2020

¹ Interested Party is a signor to this Joint Stipulation only as to the Release paragraphs Plaintiff does not have a judgment against the Interested Party and the interested Party is not a guarantor of the Defendant's debt to the Plaintiff

Garnishee, **TD BANK N.A.**, amended its answer indicating that it was holding funds in the name of the Defendant, **SUGAR MILL DIAGNOSTIC IMAGING, LLC**, in the total amount of **\$37,620.22**

4. That Interested Party, **MICHAEL K. HERRON**, is the sole member of Defendant, **SUGAR MILL DIAGNOSTIC IMAGING, LLC** and filed a personal Chapter 11 bankruptcy in the Western District of Pennsylvania having case number 19-24527-TPA.

5 That the parties desiring to resolve, all matters arising out of or relating to this proceeding including any alleged SCRA claims, and/or actions threatened by Interested Party in the bankruptcy proceeding², and in settlement of the Judgment entered against Defendant, **SUGAR MILL DIAGNOSTIC IMAGING, LLC**, Defendant, **SUGAR MILL DIAGNOSTIC IMAGING, LLC**, has agreed to pay Plaintiff, **ALLIANCE HEALTHCARE SERVICES, INC. d/b/a ALLIANCE IMAGING, INC.**, the total amount of **\$20,000.00**, to be paid directly from the monies held by the writ of garnishment served upon Garnishee, **TD BANK N.A.**

5 Plaintiff, **ALLIANCE HEALTHCARE SERVICES, INC. d/b/a ALLIANCE IMAGING, INC.**, and Defendant, **SUGAR MILL DIAGNOSTIC IMAGING, LLC**, hereby stipulate and agree that the garnished funds totaling **\$20,000.00** from the account ending in 5346 held by the Garnishee, **TD BANK N.A.**, shall be turned over to the Plaintiff's attorney within ten (10) days of entry of an order approving the terms of this Joint Stipulation for Settlement of Final Judgment. The remaining balance of **\$17,620.22** shall, upon execution of this Joint Stipulation for Settlement of Final Judgment by Defendant, **SUGAR MILL DIAGNOSTIC IMAGING, LLC**, and Interested Party, **MICHAEL K. HERRON**, and Bankruptcy Court approval, be released to Defendant, **SUGAR MILL DIAGNOSTIC IMAGING, LLC**, forthwith

² Interested Party has allege that Plaintiff has violated the automatic stay of the personal bankruptcy of Interested party by way of the garnishment of the business bank account, a claim Plaintiff vehemently denies as the bank account garnished is solely in the name of the business entity **SUGAR MILL DIAGNOSTIC IMAGING, LLC**

6 Plaintiff, **ALLIANCE HEALTHCARE SERVICES, INC. d/b/a ALLIANCE IMAGING, INC.**, agrees, that upon receipt and clearance of the garnished proceeds **\$20,000.00**, it will file a Voluntary Dismissal without prejudice of Garnishment proceeding with **TD BANK N.A.**, and provide Defendant, Defendant, **SUGAR MILL DIAGNOSTIC IMAGING, LLC**, a recordable Satisfaction of Judgment.

7 That upon its execution of this Joint Stipulation for Settlement of Final Judgment, the Defendant, **SUGAR MILL DIAGNOSTIC IMAGING, LLC**, and Interested party, **MICHAEL K. HERRON** their successors and assigns, agrees to remise, release, acquit, satisfy, and forever discharge **ALLIANCE HEALTHCARE SERVICES, INC. d/b/a ALLIANCE IMAGING, INC.**, its subsidiaries, affiliates, officers, directors, employees, attorneys, agents, representative, successors and assigns, of and from any and all manner of action and actions, cause and causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, claims and demands whatsoever, in law or in equity, which **SUGAR MILL DIAGNOSTIC IMAGING, LLC and/or MICHAEL K. HERRON**, for themselves and on behalf of their successors and assigns, did assert or could have raised against **ALLIANCE HEALTHCARE SERVICES, INC. d/b/a ALLIANCE IMAGING, INC.**, its subsidiaries, affiliates, officers, directors, employees, attorneys, agents, representative, successors and assigns, relating to, arising from or for upon or by reason of that certain lawsuit styled ALLIANCE HEALTHCARE SERVICES, INC. d/b/a ALLIANCE IMAGING, INC. v. SUGAR MILL DIAGNOSTIC IMAGING, LLC filed in the Circuit Court of the 5th Judicial Circuit in and for Citrus County, Florida, having case number 2011 CA 4232 as well as any potential claims arising under SCRA or the Bankruptcy Code. Further, upon receipt and clearance of the monies payable under this Joint Stipulation for Settlement of Final Judgment, **ALLIANCE HEALTHCARE SERVICES, INC. d/b/a ALLIANCE IMAGING, INC.**, its successors and assigns, agrees to remise, release, acquit, satisfy, and forever discharge **SUGAR MILL DIAGNOSTIC IMAGING, LLC, and/or MICHAEL K. HERRON**, their subsidiaries, affiliates, members, officers, directors, employees, attorneys, agents, representative, successors and assigns, of and from any and all manner of action and actions, cause and

causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, claims and demands whatsoever, in law or in equity, which **ALLIANCE HEALTHCARE SERVICES, INC. d/b/a ALLIANCE IMAGING, INC.**, for itself and on behalf of its successors and assigns, did assert or could have raised against **SUGAR MILL DIAGNOSTIC IMAGING, LLC, and/or MICHAEL K. HERRON**, their subsidiaries, affiliates, members, officers, directors, employees, attorneys, agents, representative, successors and assigns, relating to, arising from or for upon or by reason of that certain lawsuit styled ALLIANCE HEALTHCARE SERVICES, INC. d/b/a ALLIANCE IMAGING, INC v SUGAR MILL DIAGNOSTIC IMAGING, LLC filed in the Circuit Court of the 5th Judicial Circuit in and for Citrus County, Florida, having case number 2011 CA 4232 and to the extent applicable arising under the bankruptcy code.

8. Each of the parties request that this Joint Stipulation be filed with the Court and approved by Order of the State Court.

9. Prior to filing this Joint Stipulation in the State Court, out of abundance of caution, Interested Party, **MICHAEL K. HERRON**, shall seek Bankruptcy Court approval³, pursuant Federal Rules of Bankruptcy Procedure 2002(a)(3) and 1919, and shall file a Motion For Settlement & Compromise on or before October 23, 2020.

10. Each of the parties hereto have executed this Joint Stipulation only after undertaking a thorough investigation and consideration of all of the relevant facts and circumstances surrounding this action.

11. Each of the parties hereto have entered into this Joint Stipulation without undue influence, fraud, coercion, duress, misrepresentation or restraint having been practiced upon them by any other party hereto.

12. The parties agree that this Court shall retain jurisdiction over the parties hereto and the subject matter of this cause for the purpose of issuing such further Orders as are necessary to carry out the intent and purpose of this Joint Stipulation.

³ Bankruptcy Court approval is necessary due to the threaten claims asserted by Interested Party, MICHAEL K. HERRON, arising allegedly under the bankruptcy code and his execution of this Joint Stipulation in his personal capacity releasing the Plaintiff and other parties

13. The parties agree that any email or facsimile signature shall be deemed an original.


Dated: October 21, 2020

Eric B. Zwiebel, Esq.
EMANUEL & ZWIEBEL, PLLC.
Attorneys for Plaintiff
7900 Peters Road, Building B, Suite 100
Plantation, Florida 33324
eric.zwiebel@emzwlaw.com

By: /s/ Eric B. Zwiebel
Eric B. Zwiebel, Esq.
Fla. Bar No. 476404

Dated: October 21, 2020

ALLIANCE HEALTHCARE SERVICES, INC.
d/b/a ALLIANCE IMAGING, INC.


By: 
Brent M. Chaffee
Senior Vice President,
Associate General Counsel

Dated: 29 Oct 2020

SUGAR MILL DIAGNOSTIC IMAGING, LLC
8303 South Suncoast Blvd.
Homosassa, Florida 34446

By: 
Michael K. Herron, Member

Dated: 29 Oct 2020

By: 
Michael K. Herron, an Individual
and Debtor-in-Possession

IN THE CIRCUIT COURT OF THE 5TH
JUDICIAL CIRCUIT IN AND FOR CITRUS
COUNTY, FLORIDA

CASE NO. 2011 CA 4232

ALLIANCE HEALTHCARE SERVICES, INC
d/b/a ALLIANCE IMAGING, INC ,

Plaintiff,

vs

SUGAR MILL DIAGNOSTIC IMAGING, LLC,

Defendant,

and

TD BANK N A ,

Garnishee

AGREED ORDER ON JOINT STIPULATION FOR SETTLEMENT OF FINAL JUDGMENT

THIS CAUSE having come before the Court upon the Joint Stipulation for Settlement of Final Judgment entered into between Plaintiff, ALLIANCE HEALTHCARE SERVICES, INC d/b/a ALLIANCE IMAGING, INC , and Defendant, SUGAR MILL DIAGNOSTIC IMAGING, LLC, and the Court having considered same and being fully advised in the premises, it is thereupon

ORDERED AND ADJUDGED that the Joint Stipulation for Settlement of Final Judgment be, and the same is hereby, APPROVED and made an Order of this Court

DONE AND ORDERED in CITRUS County, Florida this ____ day of July, 2020

CIRCUIT COURT JUDGE

Copies furnished to:

Eric B Zwiebel, Esquire
EMANUEL & ZWIEBEL, PLLC
Attorney for Plaintiff
7900 Peters Road, Building B, Suite 100
Plantation, Florida 33324
eric.zwiebel@emzwlaw.com

Attorney for Garnishee
Andrew R. Heron, Esq
gservice@homerbonner.com

SUGAR MILL DIAGNOSTIC IMAGING, LLC
8303 South Suncoast Blvd
Homosassa, Florida 34446

In re:
Michael K. Herron
Debtor(s)

Case No. 19-24527-TPA
Chapter 11

CERTIFICATE OF NOTICE

District/off: 0315-2
Date Rcvd: Dec 16, 2020

User: mgut
Form ID: pdf900

Page 1 of 2
Total Noticed: 1

The following symbols are used throughout this certificate:

| Symbol | Definition |
|--------|------------|
|--------|------------|

| | |
|---|--|
| + | Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP. |
|---|--|

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Dec 18, 2020:

| Recip ID | Recipient Name and Address |
|----------|--|
| db | + Michael K. Herron, 1276 Tacoma Street, Hernando, FL 34442-3237 |

TOTAL: 1

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI).

NONE

BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, *duplicate of an address listed above, *P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

NONE

NOTICE CERTIFICATION

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Dec 18, 2020

Signature: /s/Joseph Speetjens

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on December 16, 2020 at the address(es) listed below:

| Name | Email Address |
|-----------------------|--|
| Alexander R. Kalyniuk | on behalf of Defendant Internal Revenue Service United States of America Alexander.R.Kalyniuk@usdoj.gov, Robert.D.Metcalf@tax.usdoj.gov;eastern.taxcivil@usdoj.gov |
| Aurelius P. Robleto | on behalf of Plaintiff Michael K. Herron apr@robletolaw.com rmk@robletolaw.com,ecf_admin@robletolaw.com,apr@ecf.courtdrive.com,G16422@notify.cincompass.com |
| Aurelius P. Robleto | on behalf of Debtor Michael K. Herron apr@robletolaw.com rmk@robletolaw.com,ecf_admin@robletolaw.com,apr@ecf.courtdrive.com,G16422@notify.cincompass.com |
| Brian Nicholas | on behalf of Creditor BANK OF AMERICA N.A. bnicholas@kmlawgroup.com |
| Brian E. Caine | on behalf of Creditor U.S. Bank Trust National Association as Trustee of the Bungalow Series III Trust |

District/off: 0315-2

User: mgut

Page 2 of 2

Date Rcvd: Dec 16, 2020

Form ID: pdf900

Total Noticed: 1

bcaine@parkermccay.com, BKcourtnotices@parkermccay.com

Brian M. Kile

on behalf of Creditor NexTier Bank N.A. bkile@grenenbirsic.com, mcupec@grenenbirsic.com;lstanger@grenenbirsic.com

Catriona Madalyn Coppler

on behalf of Creditor United States of America Department of the Treasury Internal Revenue Service
Catriona.M.Coppler@usdoj.gov, eastern.taxcivil@usdoj.gov;James.J.Wilkinson@usdoj.gov

Charles Griffin Wohlrab

on behalf of Creditor Wells Fargo Bank National Association cwohrlab@rascrane.com

Charles Griffin Wohlrab

on behalf of Creditor Wells Fargo National Association as Trustee for Banc of America, Alternative Loan Trust 2005-11,
Mortgage Pass-Through Certificates, Series 2005-11 cwohrlab@rascrane.com

Christopher A. DeNardo

on behalf of Creditor NATIONSTAR MORTGAGE LLC D/B/A MR. COOPER pabk@logs.com logsecf@logs.com

Jill Locnikar

on behalf of Creditor United States of America Department of the Treasury Internal Revenue Service jill.locnikar@usdoj.gov,
patricia.fitzgerald@usdoj.gov;caseview.ecf@usdoj.gov;kassi.horton@usdoj.gov

Keri P. Ebeck

on behalf of Creditor Wells Fargo National Association as Trustee for Banc of America, Alternative Loan Trust 2005-11,
Mortgage Pass-Through Certificates, Series 2005-11 kebeck@bernsteinlaw.com, jbluemle@bernsteinlaw.com

Kevin Scott Frankel

on behalf of Creditor NATIONSTAR MORTGAGE LLC D/B/A MR. COOPER pabk@logs.com

Kristen D. Little

on behalf of Creditor NATIONSTAR MORTGAGE LLC D/B/A MR. COOPER pabk@logs.com
klittle@logs.com;logsecf@logs.com

Kristen D. Little

on behalf of Defendant WELLS FARGO BANK N.A. pabk@logs.com, klittle@logs.com;logsecf@logs.com

Kristen D. Little

on behalf of Creditor Nationstar Mortgage LLC d/b/a Mr. Cooper et al... pabk@logs.com, klittle@logs.com;logsecf@logs.com

Lauren Michaels

on behalf of Creditor Office of Attorney General Department of Revenue lmichaels@attorneygeneral.gov

Maria Miksich

on behalf of Creditor BANK OF AMERICA N.A. mmiksich@kmlawgroup.com

Mario J. Hanyon

on behalf of Creditor Deutsche Bank National Trust Company as Trustee for Soundview Home Loan Trust 2006-OPT5,
Asset-Backed Certificates, Series 2006-OPT5 mario.hanyon@brockandscott.com, wbecf@brockandscott.com

Mark J. Pecarchik

on behalf of Creditor U.S. Bank Trust National Association as Trustee of the Bungalow Series III Trust pecarchik1@msn.com,
FedPhe@hotmail.com

Norma Hildenbrand, on Behalf of the United States Trustee by

on behalf of U.S. Trustee Office of the United States Trustee Norma.L.Hildenbrand@usdoj.gov

Office of the United States Trustee

ustpreion03.pi.ecf@usdoj.gov

Sheetal Ramesh Shah-Jani

on behalf of Creditor Wells Fargo Bank National Association sshahjani@rascrane.com

Thomas Song

on behalf of Creditor DEUTSCHE BANK NATIONAL TRUST COMPANY et.al. pawb@fedphe.com

Thomas Song

on behalf of Defendant BANK OF AMERICA N.A pawb@fedphe.com

Thomas Song

on behalf of Creditor BANK OF AMERICA N.A. pawb@fedphe.com

TOTAL: 26